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10/553,244	12/19/2006	Makoto Koshihata	F-8858	6973
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JORDAN AND HAMBURG LLP			PATH <sub>1</sub> BHARAT C	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,244	<b>Applicant(s)</b> KOSHIHATA, MAKOTO
	<b>Examiner</b> BHARAT C. PATEL	<b>Art Unit</b> 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 17 December 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-3 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 10/14/05 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. The following is a Final Office action in response to communication received on 12/17/08. Claims 4-8 are cancelled. Claims 1-3 are amended. Therefore, claims 1-3 are pending and addressed below.

#### ***Specification***

2. The disclosure is objected under 37 CFR 1.71 as not disclosing "a vertical rotatable part of said supporting member" in the original disclosure.

3. It appears that the Applicant uses the term of "cutting member" in place of "workpiece", and "cutting means" for the "cutting member" in different relationships than normally accepted meaning of the terms in the art.

Appropriate correction is required.

#### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a vertical rotatable part of said supporting member" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Chen 5,778,752.

Re claim 1, Chen discloses a base 16, capable of supporting a cutting member on the work surface 18; a supporting member 26, 28, for a cutting blade 14, attaching a back end portion 30 thereof to a part adjacent one end portion of a center part of said base 16 per Figs. 1-2, capable of rotating a tip portion thereof in a vertical direction per Fig. 3. It should be noted that the cutting blade reciprocates in vertical direction, therefore, the tip portion of the supporting member 28 allows for the movement. Therefore, Examiner considers that Chen satisfies the claimed subject matter. Chen

also discloses a cutting device, 10, driving rotatably by a motor 44 provided at a vertical rotatable part of said supporting member, capable of cutting said cutting member supported by said base 16 by said cutting blade 14; and means for sloping 50, 52, capable of inclining said base corresponding to a slope of the cutting member supported by said base 16 per Figs. 3-4. It should be noted that the Applicant has not definitely claimed the cutting blade as a circular shape, and has not clearly defined a vertical rotatable part of the supporting member in the specification. Also, it should be noted that the intended use of the means for sloping is to be capable of inclining the base corresponding to a slope of the cutting member and not the cutting blade. It should also be noted that the cutting member can not be inferred as a workpiece. The Applicant uses the term of "cutting member" in place of "workpiece". The cutting member can be a circular cutting blade or a saw blade. Therefore, the Examiner considers that Chen satisfies the claimed subject matter.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eastwood 2,249,814 in view of Chen 5,778,752.

Re claim 1, Eastwood teaches a base 1, capable of supporting a cutting member W; a supporting member 4 for a cutting blade 5, attaching a back end portion thereof to

a part 2 adjacent one end portion of a center part of said base 1, capable of rotating a tip portion thereof in a vertical direction via handle 9 per Fig. 3; a cutting device made up of a motor 5 and belt per col. 2, lines 20-21, driving rotatably by a motor 5 provided at a vertical rotatable part of said supporting member 4, capable of cutting said cutting member W supported by said base by said cutting blade per Figs. 3-4. However, Eastwood fails to teach means for sloping, capable of inclining said base corresponding to a slope of the cutting member supported by said base. Chen teaches means for sloping 50, 52, capable of inclining the base 16, 18, corresponding to a slope of the cutting member supported by said base 16, 18. It should be noted that the Applicant has not definitely claimed the cutting blade as a circular shape, and has not clearly defined a vertical rotatable part of the supporting member in the specification. The Applicant uses the term of "cutting member" in place of "workpiece". The cutting member can be a circular cutting blade or a saw blade. Also, it should be noted that the intended use of the means for sloping is to be capable of inclining the base corresponding to a slope of the cutting member and not the cutting blade. Therefore, the Examiner considers that Chen satisfies the claimed subject matter.

It would have been obvious to one having ordinary skill in the art at the time of invention to provide Eastwood's base with means of sloping, as taught by Chen, in order to allow for angular adjustment of the table or work surface (Chen, per col. 3, lines 23-35 and lines 50-65).

Re claim 2, Eastwood teaches that the base 1 further includes a holding device 10 & 11 and 12 & 13 which fixes the cutting member W by sandwiching per Fig. 4.

Re claim 3, Eastwood teaches that the supporting member 4 for a cutting blade 5 is attached rotatably to the base 1 in a horizontal direction at a predetermined range, and the vertical rotatable part 4 thereof being bias always by a spring 8 upward per Fig. 3 per col. 2, lines 21-23.

***Response to Arguments***

9. Applicant's arguments filed on 12/17/08 have been fully considered but they are not persuasive. In the Remarks, the Applicant argues that neither Chen nor Eastwood in view of Chen teaches or suggests a means for inclining the base of a cutting machine to an angle that corresponds to an angle of inclination of the cutting means.

In re to the above argument, the Examiner respectfully disagrees. It should be noted that claim 1 recites "...capable of inclining said base corresponding to a slope of the cutting member supported by said base" that does not require the slope of the cutting means, but requires the slope of the cutting member. The Applicant fails to clearly claim the subject matter of the invention. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, 1 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology

familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

It should be noted that the Applicant has not definitely claimed the cutting blade as a circular shape, and has not clearly defined a vertical rotatable part of the supporting member in the specification. The Applicant uses the term of "cutting member" in place of "workpiece". The cutting member can be a circular cutting blade or a saw blade. Also, it should be noted that the intended use of the means for sloping is to be capable of inclining the base corresponding to a slope of the cutting member and not the cutting blade. Therefore, the Examiner considers that Chen satisfies the claimed subject matter.

It should also be noted that the Applicant states on lines 14-17, Page 1 of Remarks that "the device of 1 further includes a means for simultaneously sloping or tilting the base and the cutting member, together, in tandem, such that any arbitrary reference point on the cutting member maintains the same relationship to an arbitrary reference point on the base" which is not recited at all in claim 1. Therefore, the Examiner considers that Chen satisfies the claimed subject matter.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang (5,390,577), Spath (5,320,016), Graves (1,474,525), Alan (2005/0229765) and Neeb (110,671) teach different mechanisms for angular adjustable

work surface of saw devices. Judge (2005/0028662) and Hayashizaki teach different clamping and holding devices for the chop saws.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BHARAT C. PATEL whose telephone number is (571)270-3078. The examiner can normally be reached on Monday-Friday, alt. Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 24502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bharat C Patel/  
Examiner, Art Unit 3724  
February 13, 2009.

/Ghassem Alie/  
Primary Examiner, Art Unit 3724